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5	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA	
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7	JOSE DECASTRO) Case No.: 2:23-CV-00580
8	Plaintiff,) PLAINTIFF'S MOTION FOR) CLARIFICATION ON ECF NO. 35
9	v.)
10	LAS VEGAS METROPOLITAN POLICE DEPARTMENT, et al.)
11	BBITHCHNEIVI, et al.)
12	Defendants.)
13)
14		
15	Plaintiff Jose DeCastro ("Plaintiff") respectfully moves this court for a clarification of the	
16	ruling in ECF No. 35. The request is based primarily on the fact that this case is currently stayed,	
17	according to the record, but the stay has been open to interpretation by this Court.	
18	In support of this reply, Plaintiff submits a Memorandum of Points and Authorities, filed	
19	concurrently, and incorporated here, records in this action, on the oral argument of counsel, if	
20	any, and on such other and further evidence as the Court might deem proper.	
21	PROCEDURAL HISTORY	
22	On July 6, 2023, Defendants moved to "stay this civil action during the pendency of the	
23	 state court criminal proceedings" (FCF No. 32.5)	8:12-13) ("Motion"). The Motion was titled as a

"MOTION TO STAY DISCOVERY", but it was a motion to stay proceedings of this action, 1 2 citing Keating, Heck, and Younger. 3 On July 19, 2923, Although, 1) Plaintiff is holding off on adding a claim for malicious 4 prosecution until the criminal claims so Heck doesn't apply, 2) Plaintiff is not a state employee 5 so Keating doesn't apply, and Defendants' Motion covered no Landis factors, Plaintiff filed a 6 response in the way of a non-opposition to the Motion at ECF No. 34. However, Defendants' 7 Motion clearly didn't raise the issue that plaintiff would be unable to state a claim, requesting 8 only a stay of discovery under Wood v. McEwen, 644 F.2d 797, 801-02 (9th Cir. 1981). 9 On July 21, 2023, this Court granted the Motion, not in part, in an order ("Order") at 10 ECF No. 35, effectively staying motion practice and discovery. Although, the Order said that 11 some discovery and scheduling would continue after a ruling on the motion to dismiss at ECF 12 No. 15. 13 On October 23, 2023, this Court ruled on the motion to dismiss (ECF No. 44), requiring some discovery and scheduling to continue (per the Order), but did not lift its stay on the 14 15 proceedings. The state court criminal proceedings are still pending. 16 On November 9, 2023, this Court ruled (ECF No. 48) that Plaintiff could participate in 17 motion practice related to ECF No. 44 until November 27, 2023. Although motion practice has 18 been stayed according to the record. This ruling also said that discovery was no longer stayed. 19 MEMORANDUM OF POINTS AND AUTHORITIES 20 Landis v. North American Co., 299 U. S. 248, 254 (1936) recognized that courts have 21 inherent power to stay proceedings. 22 Calkins v. Credit One Bank, N.A., No. 2:16-cv-2602-APG-NJK, 2017 U.S. Dist. LEXIS

34655, at *3-4 (D. Nev. Mar. 10, 2017) says that motions to stay include motion practice.

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1	These three rulings make it clear that a stay suspends deadlines. Robben v. Carson City,	
2	No. 3:13-cv-0438-RFB-VPC, 2016 U.S. Dist. LEXIS 52197, at *4 (D. Nev. Apr. 19, 2016); Var.	
3	De Streek v. AMTRAK, No. C 13-2282 MMC, 2014 U.S. Dist. LEXIS 71270, at *1 (N.D. Cal.	
4	May 23, 2014); Rivers v. Walt Disney Co., 980 F. Supp. 1358, 1362 (C.D. Cal. 1997).	
5	This Court appears to have granted a stay of proceedings in this case, but additionally	
6	ordered some specific actions, including the submission of proposed discovery plans, scheduling	
7	orders, and an amended complaint.	
8	This Court then clarified that its stay on discovery had ended.	
9	Plaintiff understands that it's in the Court's discretion to decide how to grant a motion to	
10	stay and is not complaining. Plaintiff just doesn't want to miss any deadlines and is very busy	
11	currently drafting an amended complaint. Plaintiff is glad that the discovery is moving forward	
12	and would be happy if the case is moving forward as well.	
13	Plaintiff asks this court to clarify the following:	
14	1) Was there ever a stay on proceedings, which includes motion practice and suspension	
15	of deadlines?	
16	2) If there was a stay on proceedings, was that stay lifted and when?	
17	3) If there is still a stay in place, is this court in its ruling at ECF No. 48 offering to lift the	
18	stay temporarily so that I can file a Rule 59(e) motion related to the ruling at ECF No. 44, meaning	
19	that I can also <u>instead</u> file that Rule 59(e) motion up to 28 days after the stay is lifted?	
20	4) Does a stay of civil action in this Court include a stay of motion practice?	
21	5) Does a stay of motion practice in this Court toll deadlines in that action?	
22	6) Is a motion in this Court granted by its title or by the relief requested?	
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Respectfully submitted,

Jose DeCastro
Pro Se Plaintiff